

## **REMARKS**

Initially, applicants note that claims 12 - 19 are indicated to contain allowable subject matter, subject to being rewritten in independent form to include the limitations of the base claim and any intervening claims. Accordingly, claim 12 has been written in independent form to include the limitations of claim 11 from which it originally depended. Claims 13 - 20 now depend directly or indirectly from claim 12 with minor editorial changes made in claims 16 and 17 and the dependency of claim 20 changed.

Original claims 1 - 10 were rejected under 35 U.S.C. Sec. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. All of these claims were rejected based upon the asserted position that it is not known if applicants are claiming the shield per se or in combination with the track and jamb in a door system in independent claim 1 and claims 2 - 9 due to their dependence directly or indirectly on claim 1. Claim 1 has been amended to recite a movable barrier system with the door jamb, guide track and door, together with the shield all being positively recited as part of the barrier system combination. Accordingly, it is submitted that the indefiniteness rejection with respect to claims 1 - 10 is appropriately overcome.

Turning now to the substantive aspects of the Official Action, original claims 1 - 4, 9 - 11 and 20 were rejected as anticipated by Rekret U.S. Patent No. 5,718,276 (hereinafter “Rekret ‘276 patent”). In support of the rejection the Official Action states that Rekret ‘276 discloses the claimed invention including a shield comprising first and second legs 39, 41, and first and second tabs 45, 47. While the Rekret ‘276 patent possesses certain elements that might be deemed to respond to claim elements of the instant application, the limitations of the claims as amended hereinabove are clearly not taught or suggested by the subject Rekret ‘276 patent.

The Official Action makes reference to the embodiment of the Rekret ‘276 patent which is shown in Figs. 6 - 8 of the drawings. In that respect there is shown

a frame 31 for a vinyl garage door 1 or a rolling door, wherein the frame 31 is positioned on the outer surface of a building on which the door is located and is designed to guide the sliding action of the door and isolate the interior of the structure from outside weather elements. As seen in the drawing Figs. the frame 31 has a substantially U-shaped metal channel 33 which is secured to the outside of the building structure 32. The inside leg of the channel 33 is secured to the outside of the building structure 32. A vinyl pad or plate 35 is secured along the inside edge of the outside leg of the channel 33 over its vertical length. Also mounted on the building structure 32 is a vinyl corner member having a main body or plate 39 and a thicker leg 41 at right angles to the plate 39. The leg 41 has a channel 43 in which a brush 45 is provided and a seal 47 is provided laterally inwardly of the brush 45 extending from the leg 41. The brush 45 performs the functions of acting as a flexible bias member forcing the door outwardly against tab 35 and as a secondary debris block for foreign matter which finds its way around the plate 35 to the area inside the channel 33. The seal 47 pressed up against the inside of the door 1 will eliminate air flow around the door edges with the brush 43 allowing seal 47 to perform an airtight function by preventing debris from breaking the seal between the sealing member 47 and the inner surface of the door. Thus, it is apparent that both the arrangement and function of Rekret '276 patent elements differ drastically from applicant's claimed invention.

Referring now to the limitations of amended claim 1, it is apparent that the Rekret '276 guiding and sealing arrangement does not anticipate or render obvious applicants differing structure which is employed for a totally different reason, i.e, blocking a space between a door jamb and a track mounted thereon. Initially, claim 1 recites a door jamb which is not depicted in Figs. 6 - 8 of the Rekret '276 patent. A door jamb is a wooden frame member positioned interiorly of the door opening whereas Rekret '276 structure in the form of channels 33 is positioned on the exterior surface 32 of a building opening. Claim 1 further requires a guide

track rearwardly offset from the door jamb to form an open space therebetween. While the Rekret '276 patent shows a flat pad 35 and brush 43 for guiding the door these elements do not respond to a guide track and are not rearwardly offset from the door jamb to form an open space therebetween, because the channel 33 is mounted to the outer surface of a door opening and the channel 33 is not offset from the outer surface of the building to form an open space. Claim 1 further requires a roller mounted door movable along the guide track between a closed position and an open position. The Rekret '276 patent does not disclose a roller mounted door movable on guide tracks but rather door without rollers which slides between the pad or plate 35 and the brush 45. Claim 1 proceeds to recite an elongate shield attached to the door jamb laterally outwardly of the guide track. There is no jamb depicted in Figs. 6 - 8 of the Rekret '276 patent, and the legs 39, 41 are not attached to a door jamb and are not laterally outwardly of a guide track such as the channel 33. Claim 1 further requires that the shield extend rearwardly from the door jamb to overly a portion of the guide track to cover the open space between the jamb and the guide track. The elements 39 and 41 of Rekret '276 do not extend rearwardly from a door jamb which does not exist and they do not overly a portion of the guide track to cover an open space. Quite simply the Rekret '276 patent does not respond to a single limitation of amended claim 1 and thus clearly patentably distinguishes thereover.

Various of the claims depending from claim 1 contain independently patentable subject matter in combination with the limitations of claim 1, in addition to being allowable due to their dependence on claim 1 for the reasons set forth above. For example, claim 2 requiring that the portion of the elongate shield overlaying the guide track is flexible distinguishes over the Rekret '276 patent for the reason that it does not possess a shield overlaying a guide track. Dependent claim 3 additionally recites patentable subject matter in the form of the first and the second legs paralleling the door jamb and extending rearwardly, respectively, together with a tab extending inwardly from the second leg and engaging the

guide track. These recitations are comparable to those contained in original claim 12 indicated to contain allowable subject matter in the Official Action and hereinabove rewritten in independent form. The remainder of claims 4 - 10 depend from claim 3 or claims dependent on claim 3 and are therefore believed to be allowable for reasons specified in regard to claims 1 and 3.

Amended claim 11 is similar to claim 1 except being drawn to a pair of tracks mountable on jambs mounted to either side of a door opening, rather than in conjunction with a single door jamb. Claim 11 also recites the numerous elements of claim 1 which as discussed above do not exist in the Rekret '276 patent. In particular, the limitations of claim 11 require a vertical track section running adjacent the jambs with a space defined between the tracks and the jamb along a portion of their length. The claim further requires that the shield be mounted laterally outwardly of the tracks and adjacent thereto while extending rearwardly from the jamb and overlying a portion of the tracks along the length of the vertical track section with the shield contacting the vertical track section along its length. For the reasons discussed above none of these limitations appear in the Rekret '276 patent.

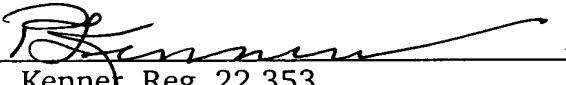
New claim 21 is directed to a shield for a movable door. The claim positively recites elements of the shield and inferentially the guide tracks mounted on a door jamb. The claim recites the first and second legs of an elongate body which are attached together, with a first tab on the first leg and a second tab on the second leg. To the extent analogous, the brush 45 and seal 47 both project from leg 41 and extend into engagement with the innerside of the garage door 1, such that claim 21 patentably distinguishes thereover. Dependent claim 22 recites additional patentable details regarding the positioning of the tabs on the first leg and the second leg of the shield.

New claim 23 is similar to dependent claim 1 except for reciting the shields in a means plus function format. It is submitted that this claim patentably

distinguishes over the Rekret '276 patent for the reasons set forth above in conjunction with independent claim 1.

In view of the above amendments to the claims and the related discussion, reconsideration and favorable action on claims 1 - 24 are earnestly solicited.

Respectfully submitted,

  
Phillip L. Kenner, Reg. 22,353  
Renner, Kenner, Grieve, Bobak, Taylor & Weber  
First National Tower - Fourth Floor  
Akron, Ohio 44308-1456  
Telephone: (330) 376-1242  
Facsimile: (330) 376-9646

Attorney for Applicants

Dated: June 7, 2005